

REMARKS

Claims 22-31 are pending in the application.

Claims 1-15 have been canceled without prejudice to the filing of one or more divisional applications and claims 16-22 have been canceled without prejudice in favor of new claims 22-31. Support for new claims 22-31 may be found throughout the specification, including, at least at page 5, paragraph [0025] to page 6, paragraph [0026]; page 9, paragraph [0032] to page 10, paragraph [0035]; and former canceled claims 16-21. No new matter has been added by the new claims.

Applicants would like to draw the Examiner's attention also to the enclosure of a Revocation and Appointment of Attorney by Assignee. According to the enclosed, the undersigned is continuing representation of the Assignee, but through a new law firm (Flaster/Greenberg P.C.) and with new contact information. Thus, all questions concerning this application should now be directed to the new contact information appearing below.

In Paper No. 0105, the Examiner has provided a written restriction requirement based on the oral restriction requirement issued in January of 2005, between the claims of Group I (claims 1-7) which are drawn to a method fabricating a cargo carrier, allegedly classified in Class 264, subclass 239, the claims of Group II (claims 8-15) which are drawn to an apparatus for fabricating a cargo carrier, allegedly classified in Class 15, subclass 3, and the claims of Group III (claims 16-21) which are drawn to a cargo carrier, allegedly classified in Class 296, subclass 39.2.

The Examiner takes the position that the inventions of Groups I, II and III are related as process of making, apparatus and product made, that the inventions of Groups I and III are distinct because the product claimed can be made by another and materially different process; and the inventions of Groups II and III are distinct because the product claimed can be made by another and materially different process.

The applicants do not necessarily agree with the Examiner's arguments in support of restriction, however, in an effort to expedite prosecution of the application on the merits, applicants have canceled the claims in Groups I and II, without prejudice to the filing of one or more divisional applications such that the pending claims are directed to a cargo carrier as in prior claims 16-21 and Group III.

The Examiner has rejected claims 16-21 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,694,507 of Dresen ("Dresen").

While claims 16-21 have been canceled, new claims 22-31 have been added and are also drawn to a cargo carrier. Applicants respectfully traverse the Examiner's rejection of claims 16-21 under § 102(b), and the arguments in support thereof, and request reconsideration and withdrawal of these rejections and request the Examiner's allowance of new claims 22-31 over Dresen.

The Examiner's position concerning Dresen is that it teaches a cargo carrier for a motor vehicle that has, in combination, a co-formed composite sheet having a first layer of a first thermoplastic material and a second layer of a second thermoplastic material bonded thereto, wherein the composite sheet defines a pair of opposed spaced-apart sidewalls, a front wall extending between and merging with the sidewalls, a bottom panel extending between and merging with the sidewalls and a front wheel well feature. The Examiner further states that the bottom panel has at least on part of its surface a roughened, friction-enhancing surface.

The Examiner further argues that Dresen teaches co-extrusion, use of an upper layer that is a modified polyolefin, a second layer of a high density polyethylene and bonding together of the first and second layers without an adhesive. Further, Dresen is argued to disclose that the "roughened, friction enhancing surface is achieved."

Dresen is directed to providing anti-slip surfaces to bed liners by providing a layer of either ethylene ethyl acetate (EEA), ethylene vinyl acetate (EVA), thermoplastic rubber (TPR) (Kraton®/Santoprene® blend), Saranex or modified polyolefin elastomer sold as Ren-Flex® to an inside surface of a bed liner (col. 4, lines 26-57). The purpose of the layer is to choose the particular materials noted to provide a low gloss (so as to look like standard high density polyethylene (HDPE) liners without such a coating) and to provide a higher co-efficient of friction without tackiness (col. 4, lines 55-64).

The cargo carrier of claims 22-31 includes an upper surface on the bottom of the carrier which is not just of a different co-efficient of friction or gloss from standard high-density polyethylene. The applicants' cargo carrier can be formed of high density polyethylene but still be slip-resistant. That is because at least a portion of the upper surface of the bottom of the cargo carrier is physically altered so as to provide a roughened, friction-enhancing surface having

grooves or depressions abraded into the surface which may be formed, for example, by scoring, roughing, abrading and/or scuffing.

Dresen does not teach such a surface nor does it suggest, since Dresen's focus is on using an alternative material in co-extrusion to provide a difference in coefficient of friction resulting from the material properties of specific materials and not physical alteration to a portion of the surface of the material. Therefore, the new claims as presented (claims 22-31) are not anticipated by or suggested by Dresen.

Based on the foregoing, applicants submit that the claims patentably distinguish over the prior art cited in support of the Examiner's rejection, and request reconsideration and withdrawal of the rejection and an early notice of allowance.

Respectfully submitted,

JOHN C. MONTAGNA ET AL.

7/7/05
(Date)

By:


LYNDA L. CALDERONE

Registration No. 35,837

FLASTER/GREENBERG P.C.

Commerce Center

1810 Chapel Avenue West

Cherry Hill, NJ 08002

Telephone: 856-661-1900

Direct Dial: 856-382-2206

Facsimile: 856-661-1919

E-Mail: lynda.calderone@flastergreenberg.com

Enclosures: Petition for Extension of Time (in duplicate); Revocation and Appointment of Attorney by Assignee (with attachments).

LLC:llc